pulsory process for the attendance of witnesses. Whether this provision is violated by the refusal of a continuance under the facts of the principal case is a mooted question. In some states a continuance has been so refused without a question raised as to its constitutionality: *Lock* v. *Com.*, 144 Ky. 232; *State* v. *Dickson*, 6 Kan. 209; *Pearce* v. *Territory*, 11 Okl. 438. In other states, such refusal of a continuance has been held constitutional where a reasonable time has been given the accused in which to compel the attendance of witnesses: *State* v. *Daniels*, 49 La. Ann. 954; *State* v. *Fairfax*, 107; La. 624; *State* v. *St. Clair*, 6 Idaho 109; *State* v. *Hoyt*, 140 Ill. 588; or in case compulsory process would be ineffective, as where the witness is outside the jurisdiction: *People* v. *Savant*, 112 Mich. 297; *Keating* v. *State*, 160 Ill. 480; *People* v. *Leyshon*, 108 Cal. 440. The constitutional right to compulsory process for the attendance of witnesses is not a guarantee that witnesses will be present, but only that a reasonable effort may be made to compel attendance; *Smith* v. *State*, 118 Ga. 61; *State* v. *Wilcox*, 21 S. D. 532; *Willard* v. *Santa Barbara Super. Ct.*, 82 Cal. 456. An attachment is properly refused where a witness is sick and unable to attend court: *Terry* v. *State*, 120 Ala. 286; *Gardner* v. *U. S.*, 5 Ind. Terr. 150; *State* v. *McCarthy*, 43 La. Ann. 541. The question then is, if the witness is within the state, but process is unavailable at the time application is made, has the accused the constitutional right to a continuance until it is available? *State* v. *Wiltsey*, 103 Iowa 54, holds that where a witness is sick, no question of compulsory process arises. "On account of the sickness of the witness, process did not avail to bring the witness into court, but the defendant was not thereby deprived of his constitutional right." *Hoyt* v. *People*, 140 Ill. 588, holds that the accused is entitled to a reasonable time for the execution of process to compel attendance of witnesses at the trial, but has no constitutional right to the continuance of causes for trial. Under such holdings, the question in the principal case would be one as to the abuse of discretion on the part of the trial judge, and not a question as to the constitutional rights of the accused.

CRIMINAL PROCEDURE—PRESENCE OF ACCUSED.—In a criminal trial, the jury had deliberated about four hours upon their verdict, and returned into court for further instructions. Thereupon the trial judge prepared and read them a written instruction. Defendant was absent, being confined in the county jail; his attorney was present, but made no objections. On noticing the absence of defendant, the court sent for him, recalled the jury and then read the identical instruction which had been given during his absence. *Held*: That the accused has the right to be present during every moment of the trial, that the giving of instructions in his absence is a part of the trial, and is such prejudicial error as cannot be cured by a re-reading of them in his presence. *State* v. *Beaudin*, (Wash. 1913) 136 Pac. 137.

It is a well established rule that in cases of felony, accused must be present during the entire trial. The courts are almost uniform in holding that the giving of instructions in the absence of accused is reversible error. *Wade* v. *State*, 12 Ga. 25; *State* v. *Myrick*, 38 Kan. 238; *Maurer* v. *People*, 43 N. Y. 1; *Jones* v. *State*, 26 Ohio St. 209. In early English law, when the

defendant was not permitted to have counsel, the doctrine was established that the accused must be present at every stage of the trial. This doctrine has since been followed in American courts without regard to the reason on which it was founded. *State* v. *Outs,* 30 La. Ann. 1155. The mere fact that one step of the trial was gone over twice, once in his absence, but in identically the same manner, and without a possibility of prejudice, hardly seems to justify the contention that the accused was not present during every stage of the trial. In the instant case, the accused did not even suggest that he was prejudiced. He relied solely upon a naked technicality for a new trial. *Meece* v. *Com.,* 78 Ky. 586, lays down an apparently more reasonable and satisfactory doctrine. The facts are identical with the instant case, except that the instructions were not re-read in the presence of the accused. A new trial was not granted. The court said, "One charged with the commission of a felony cannot be tried during his absence from the court-room, and when any step is taken during the trial in the absence of the prisoner, the record must show affirmatively that he could in no wise have been prejudiced by it, else this court will reverse the judgment.". On facts in every respect identical with the instant case, the California court held in *People* v. *Soto,* 65 Cal. 621, that the repetition of the instructions in the presence of the accused cured the error. The court said, "Inasmuch as it was the jury's duty to bear in mind precisely the same instructions given while the defendant was in the court-room, it is manifest that no injury could have been done defendant by reason of what occurred while he was absent." This latter case gives the accused every safeguard, and denies him no constitutional rights. The granting of a new trial in the instant case seems an unwarranted delay and expense, and a fit cause for further public dissatisfaction with the machinery of justice.

INSURANCE—INSURABLE INTEREST—TIME OF RECKONING SAME.—A life insurance policy for a 10-year term provided that at the expiration of the term a new policy for an equal amount and for a similar term would be issued without medical examination provided the expiring policy were returned to the company. Upon the expiration of the term the policy was not returned but was renewed by a rider attached to it extending the obligation of the company for a period of 10 years. The beneficiary under the policy was the wife of the assured at the time it was issued. Prior to the renewal she obtained a divorce and paid all of the subsequent premiums herself. *Held.* The rider extended the old contract for another term of 10 years and did not create a new contract. The insurable interest of beneficiary was to be tested as of the date of the original contract and not as of the date of the renewal. *Marquet* v. *Aetna Life Ins. Co.* (Tenn. 1913) 159 S. W. 733.

Where one has an insurable interest at the time insurance is effected upon the life of another for his benefit the fact that his interest ceases prior to the insured's death will not deprive him of his right to recover under the policy. *Scott* v. *Dickson,* 108 Pa. 6, 56 Am. St. Rep. 192. Hence the subsequent divorce of a wife will not affect her right to recover under a policy upon the life of her husband. *Conn. Mut. Life Ins. Co.* v. *Schaefer,* 97 U. S. 457,